

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

|                          |   |                                   |
|--------------------------|---|-----------------------------------|
| HENRY W. HODGES, JR.     | ) |                                   |
|                          | ) |                                   |
| Plaintiff,               | ) |                                   |
|                          | ) | Civil Action No. 4:09-cv 2256-TER |
|                          | ) |                                   |
| vs.                      | ) |                                   |
|                          | ) | ORDER                             |
| MICHAEL J. ASTRUE,       | ) |                                   |
| COMMISSIONER OF SOCIAL   | ) |                                   |
| SECURITY ADMINISTRATION, | ) |                                   |
|                          | ) |                                   |
| Defendant,               | ) |                                   |
| _____                    | ) |                                   |

This matter is before the court upon Plaintiff's motion for attorney fees. Counsel for Plaintiff filed an amended motion for attorney's fees and costs pursuant to the Social Security Act, 42 U.S.C. 406(b).<sup>1</sup> The amended motion seeks reimbursement for counsel's representation in the above captioned matter in the amount of \$6,000.00.<sup>2</sup> (Doc. #36). Defendant filed a response stating there is no objection to the award of \$6,000.00 in attorney fees requested by counsel under §406(b) and notes that the court has awarded Plaintiff \$6,798.27 in attorney's fees under the EAJA.<sup>3</sup> (Doc. #38).

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<sup>1</sup> Plaintiff's initial request for disability insurance benefits (DIB) was denied and Plaintiff sought review of the Commissioner's decision in this Court. Plaintiff was successful in this court, obtaining a judgment filed March 15, 2011, reversing the Commissioner's decision and ordering that Plaintiff be awarded benefits. (Doc. #26).

<sup>2</sup> Plaintiff's counsel attached a copy of the fee agreement to the amended motion. (Doc. #37).

<sup>3</sup> Defendant correctly asserts and Plaintiff's counsel has acknowledged that Plaintiff's counsel is required to refund to Plaintiff the lesser of the two fees between the EAJA fees and the §406(b) fee.

As there is no opposition to the amended motion for attorney fees pursuant to 42 U.S.C. §406(b) of the Social Security Act in the amount of \$6,000.00,

**IT IS ORDERED** that Plaintiff's motion for attorney's fees pursuant to the Social Security Act, 42 U.S.C. §406(b), is granted in the amount of \$6,000.00.

AND IT IS SO ORDERED.

s/Thomas E. Rogers, III  
Thomas E. Rogers, III  
United States Magistrate Judge

March 5, 2012  
Florence, South Carolina